IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2961 of 2005

Between:

K.Mallikarjuna Rao S/o.Sri Satyanarayana
R/o.Rodagttlapalli Village Ravulapalem Mandal
East Godavari Ditrict.

..... PETITIONER

AND

1 State of Andhra Pradesh represented by its Principal Secretary to Government, Industries and Commerce Department Secretariat, Saifabad, Hyderabad.
2 The District Collector and Confirming authority District Level Committee (Sand Auctions) Kakinada, East Godavari District.
3 The District Panchayat Officer-Cum-Member Convenor District Level Committee (Sand Auctions)
Kakinada, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly, one in the nature of writ of Mandamus; a). Declaring the action of the 3rd respondent in issuing the impugned notice dt.25.12.2004 demanding the petitioner to pay 25%of the balance amount or furnish bank guarantee pertaining to sand package No.3 of Ravulapalem, Obulanka, Marlapalem and Komarajulanka, East Godavari District as arbitrary, illegal violative of Articles 14 and 19 (1) (g) of the Constitution of India and also contrary to confirmation orders dt.28.10.2004. b) Direct the respondents to permit the petitioner to quarry sand in package No.3 of Ravulapalem, Obulanka, Marlapalem and Komarajulanka, East Godavari District and further direct the respondents to permit the petitioner to pay up the 4th and last installment on or before 31.3.2005 and also permit the petitioner to furnish bank guarantee on or before 28.2.2005. c) Further direct the respondents to execute the lease deed in favour of the petitioner on

Rs.100/- stamp paper furnished by the writ petitioner in Form-G-I under Rule 9(h) without insisting the petitioner to pay up the 2% Security deposit.

Counsel for the Petitioner:MR.NUTY RAM MOHAN RAO

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

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ORDER:

This writ petition is filed aggrieved by the action of the third respondent in issuing the impugned notice dated 25.12.2004, whereunder the petitioner was directed to pay 25% of the balance amount or to furnish Bank guarantee before 10.02.2005.

It is not in dispute that the petitioner was granted lease in respect of quarrying of sand in package No.3 of Ravulapalem, Ubalanka, Komarajulanka, Merlapalem and as per the proceedings dated 28.10.2004, he was required to pay the second instalment of the lease amount on or before November, 2004 and the third instalment on or before 28.02.2005.

The petitioner states that he has paid the second and third instalments as per the proceedings dated 28.10.2004. So far as the fourth instalment, which is the last

instalment, is concerned, it is required to be paid on or before 31st May 2005. However, under the impugned notice dated 25.12.2004, the petitioner was directed to pay 25% out of the said amount by 10th January, 2005 and the balance to be paid by 10th February, 2005 on the ground that the petitioner failed to pay the instalments and also failed to furnish the bank guarantee as required under the proceedings dated 28.10.2004.

Learned counsel for the petitioner contends that since the petitioner has already paid the third instalment, and the fourth instalment falls due only on 31.5.2005, the respondents are not justified in issuing the impugned notice. At any rate, learned counsel submits that the petitioner is willing to furnish the Bank guarantee by 28.02.2005 and he is also willing to pay the entire amount by 31.03.2005.

Having regard to the fact that as on today the instalments, as fixed under the proceedings dated 28.02.2005, are not due, the learned Government Pleader has not opposed the said proposal.

Accordingly, the writ petition is disposed of with a direction to the respondents not to implement the impugned notice dated 25-12-2004 against the petitioner and not to take any coercive steps on the basis of the same, provided, the petitioner furnishes Bank Guarantee for 25% of the amount payable towards the fourth installment i.e., Rs.25 lakhs on or before 28-2-2005, and also pays the total balance amount payable as per the confirmation order dated 28-10-2004 on or before 31-3-2005. It is made clear that in case the petitioner fails to comply with the above said conditions, it is open to the respondents to take further steps in terms of the impugned notice dated 25-12-2004. No costs.

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18.02.2005

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To

1 The Principal Secretary to Government, State of Andhra Pradesh, Industries and Commerce Department Secretariat, Saifabad, Hyderabad.
2 The District Collector and Confirming authority District Level Committee (Sand Auctions) Kakinada, East Godavari District.
3 The District Panchayat Officer-Cum-Member Convenor District Level Committee (Sand Auctions)
Kakinada, East Godavari District.

4 Two C.Cs to the G.P. for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

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